

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ROBERT CHARLES PARADIS,  
Petitioner,  
vs.  
PAT GLEBE,  
Respondent.

NO. CV-10-3013-LRS

ORDER DENYING FIRST AMENDED  
PETITION AS TIME-BARRED

BEFORE THE COURT is Petitioner's First Amended Petition (Ct. Rec. 7), as well as a Declaration (Ct. Rec. 8) asserting his petition should be considered timely. By Order filed March 30, 2010 (Ct. Rec. 5), the court had advised Petitioner of the deficiencies of his federal habeas petition and directed him to amend to present a short and plain statement demonstrating he is entitled to relief. Mr. Paradis's First Amended Petition, consisting of 103 pages, including attachments, does not comply with this directive.

In his Declaration Petitioner attempts to allege the state unconstitutionally prevented him from filing his federal habeas petition on time under 28 U.S.C. § 2244(d)(1)(B), and that he has been exercising "due diligence," but the nature of his crimes has made it difficult to obtain help from inmate law clerks. In his Declaration Petitioner describes his sentence and his initial placement and transfers within the Department of Corrections ("DOC") from 1996 to 1998. During that time frame,

1 however, he was able to pursue a direct appeal.

2 Petitioner indicates sometime after February 1998, his back gave out and he  
3 landed in a wheelchair and was eventually transferred to the Airway Heights Correction  
4 Center for back surgery. Petitioner does not state when all these events occurred. He  
5 claims his “appeal arrived sometime late in 1998.” Court records, however, indicate the  
6 Washington State Court of Appeals, Division III, denied his direct appeal on August 13,  
7 1998. By letter dated August 25, 1998, and addressed to Petitioner in Steilacoom,  
8 Washington, his appellate counsel advised Petitioner he would need to file a petition for  
9 review to the Washington State Supreme Court by September 11, 1998 (See Ct. Rec. 7-1,  
10 Petitioner’s exhibits, page 14). Apparently, Petitioner did not do so. He does not give  
11 an account of his whereabouts during August and September 1998, or explain how the  
12 State prevented him from filing a petition for review. As set forth in the court’s previous  
13 Order, Petitioner had until September 1999, to file a federal habeas petition. He did not  
14 do so.

15 Petitioner asserts in January 1999 he was placed in segregation at the Airway  
16 Heights Corrections Center because of a threatening letter against him, and his back  
17 surgery was cancelled. In April or May 1999, he was transferred to the Washington  
18 State Penitentiary for surgery, but was informed upon his arrival that no back surgeries  
19 would be done at that facility. He indicates he was placed in protective custody on  
20 unspecified dates due to threats made against him. He states he was then transferred to  
21 Clallam Bay Corrections Center “three months later” for back surgery, but was informed  
22 upon his arrival that no back operations would be done there. Petitioner claims his left  
23 arm gave out in November 1999, and he was transferred back to the Washington State  
24 Penitentiary where he received orthopedic surgery to his left shoulder in January 2000.

25 Petitioner indicates in August 2001, while at the Stafford Creek Correction Center,  
26 he was in a wheelchair due to his back pain and taking even more pain medication. He  
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1 asserts between November and December 2003, he made nearly 20 trips to Olympia,  
2 Washington to see a neurosurgeon, and finally received an operation in March 2004.  
3 After recuperating for approximately nine months, Petitioner states he was “finally  
4 getting access to law library to start my 7.8 Yakima County Superior Court.”

5 Contrary to Petitioner’s assertions, a prisoner is not entitled to equitable tolling  
6 based on allegations he was unaware of the law, had medical problems, and failed to  
7 receive help from prisoner law clerks. It is well settled that ignorance of the law is not a  
8 basis for equitable tolling. *See Hughes v. Idaho State Bd. of Corrections*, 800 F.2d 905,  
9 909 (9th Cir. 1986) (finding that an illiterate *pro se* petitioner's complete lack of legal  
10 assistance is not cause to excuse a procedural default); *Tacho v. Martinez*, 862 F.2d  
11 1376, 1381 (9th Cir. 1988)(finding a *pro se* petitioner's mental condition and reliance on  
12 incompetent "jailhouse lawyers" is not cause).

13 Furthermore, Petitioner has failed to show he was medically incapable of pursuing  
14 his rights between August 1998 and September 1999, the relevant time frame for filing  
15 his habeas petition. He cites no authority, and this court has found none, to support a  
16 conclusion that state-rendered medical treatment could constitute a state impediment  
17 under § 2244(d)(1), making it impossible for him to seek federal habeas relief. None of  
18 Mr. Paradis’s assertions constitute “extraordinary circumstances” warranting the  
19 Antiterrorism and Effective Death Penalty Act’s one-year limitations period for filing a  
20 petition for writ of habeas corpus in federal court be equitably tolled. Petitioner has  
21 failed to show his federal habeas petition is timely under 28 U.S.C. § 2244(d).

22 Therefore, for the reasons set forth above and in the court’s previous Order, **IT IS**  
23 **ORDERED** the First Amended Petition is **DENIED as time-barred**. The District Court  
24 Executive shall enter this Order, enter judgment and forward copies to Petitioner. The  
25 court certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could  
26 not be taken in good faith, and there is no basis upon which to issue a certificate of  
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1 appealability. 28 U.S.C. § 2253(c); Fed. R.App. P. 22(b).

2 **DATED** this 29th day of April, 2010.

3 *s/Lonny R. Suko*

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5 LONNY R. SUKO  
6 CHIEF UNITED STATES DISTRICT JUDGE  
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